

STATEMENT OF PURPOSE

RS18239

As a result of "Smith v. Jardine", ITD can make a settlement offer approximately 90 days before trial that requires the property owner to recover at least 110% of the offer or risk not recovering attorney fees and costs. This legislation will amend Section 7-718, Idaho Code, to allow Offers of Judgment (Rule 68) to occur 30 or more days before trial. This would stop the accrual of fees and costs between the Offer of Judgment and the trial if the property owner failed to recover at least 110% more than the Offer of Judgment. This would create an incentive for a property owner to accept a reasonable offer extended by the condemnor. Currently there is no incentive for a property owner to accept a reasonable offer made after the initial "Jardine" offer.

The settlement offer amendment will apply to condemnation and inverse condemnation actions.

FISCAL NOTE

Fiscal Impact if Bill Passes: This may save money in certain cases involving high value properties.

Fiscal Impact if Bill Fails: There is no additional impact or savings if the bill fails.

Contact:

Name: Scot Campbell

Office: Idaho Transportation Department

Phone: (208) 334-8811